



WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

Collective Bargaining on Base Wages for General Municipal Employees

This Information Memorandum describes collective bargaining on base wages for general municipal employees under Wisconsin's Municipal Employment Relations Act (MERA), as well as the base wage provisions in EmR1203, an emergency rule promulgated by the Wisconsin Employment Relations Commission (WERC) that interprets the provisions of 2011 Wisconsin Act 10 allowing collective bargaining on base wages only. In addition, this memorandum discusses whether this emergency rule creates a baseline for collective bargaining on a person's actual wages, including supplemental compensation for education credits or credentials.

MERA AND BASE WAGES

Under MERA, as amended by 2011 Wisconsin Acts 10 and 32, general municipal employees can collectively bargain with their employers on base wages but are prohibited from bargaining collectively on other subjects. "Base wages" includes only total base wages and excludes any other compensation, such as overtime, premium pay, merit pay, performance pay, supplemental compensation, pay schedules, and automatic pay progressions. [s. 111.70 (1) (a) and (4) (mb), Stats.] It appears that the term "base wages" also excludes additional forms of compensation such as "step" and "lane" changes. (Step changes are salary changes based on years of experience, and lane changes are salary changes based on completion of professional development programs.) Any compensation that is not "base wages" is not a subject of collective bargaining and is granted at the discretion of the municipal employer.

Although a municipal employer may bargain collectively on base wages, a municipal employer may not bargain collectively with general municipal employees with respect to a proposal that does any of the following, except by referendum:

- If there is an increase in the Consumer Price Index (CPI) change, provides for total base wages for authorized positions in the proposed collective bargaining agreement that exceeds the total base wages for authorized positions 180 days before the expiration of the previous collective bargaining agreement by a greater percentage than the CPI change.

- If there is a decrease or no change in the CPI change, provides for any change in total base wages for authorized positions in the proposed collective bargaining agreement from the total base wages for authorized positions 180 days before the expiration of the previous collective bargaining agreement.

“CPI change” is the average annual percentage change in the CPI for all urban consumers, U.S. city average, as determined by the federal Department of Labor, for the 12 months immediately preceding the current date. [s. 111.70 (1) (cm) and (4) (mb), Stats.]

If a municipal employer wishes to increase the total base wages of its general municipal employees in an amount that exceeds the above limit, the governing body of the municipality must adopt a resolution that specifies the amount by which the proposed total base wages increase will exceed the limit. The resolution may not take effect unless it is approved in a referendum, which must occur in November for collective bargaining agreements that begin the following January 1, except that, for school districts, the referendum must occur in April for collective bargaining agreements that begin in July. The referendum results apply to the total base wages only in the next collective bargaining agreement. [ss. 66.0506 and 118.245, Stats.]

EMERGENCY RULE 1203

WERC published an emergency rule (EmR1203) on April 19, 2012, that provides a calculation for determining the amount of base wages that municipal employers and general municipal employees can bargain on without requiring a referendum. EmR1203 is in effect from April 19, 2012, to September 15, 2012, unless the effective period is extended by the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

EmR1203 provides that the maximum dollar amount subject to collective bargaining on base wages for collective bargaining agreements entered into on or after June 29, 2011, is calculated in the following manner:

- Identify all of the authorized positions that existed 180 days prior to the expiration date of the most recent collective bargaining agreement. If it is the initial bargaining agreement for a bargaining unit, identify the authorized positions that existed 180 days prior to the last day before the first day of the agreement. EmR1203 defines “authorized positions” as those positions in the bargaining unit that are filled. [ss. ERC 90.02 (1) and 90.03 (1).]
- Determine the hourly, or annual, if applicable, base wage rate for each authorized position. The hourly or annual base wage rate is the hourly or annual rate applicable to the position ***excluding*** supplemental compensation. Supplemental compensation includes, but is not limited to, education credits or credentials in pay schedules, overtime, premium pay, lump sum merit pay, performance pay, and extra duty pay. [s. ERC 90.03 (2); emphasis added.]
- If applicable, multiply the hourly base wage rate by the annual number of regularly scheduled hours for each authorized position.

- Total the annual base wages for all authorized positions.
- Multiply the total base wage amount by the applicable CPI change. The resulting dollar amount is the maximum amount subject to collective bargaining.

In addition, EmR1203 provides that both the dollar amount resulting from the calculation, described above, and the distribution of the amount to employees are subject to collective bargaining. [s. ERC 90.02 (4).]

DISCUSSION

As described above, MERA creates the process for collective bargaining on base wages and defines “base wages” as excluding certain types of compensation. This means that any compensation that is not “base wages” is not a subject of collective bargaining and is granted at the discretion of the municipal employer.

Although not defined in MERA itself, “supplemental compensation” generally means pay that is given to an individual in consideration for completion of approved educational courses and that is given as a supplement to the basic pay set for the person’s position. [See, e.g., s. 40.05 (4) (b) and (bm), Stats.]

EmR1203 creates the calculation to implement collective bargaining on base wages under MERA in order to determine the maximum amount of base wages that are subject to collective bargaining. “Base wages,” for purposes of EmR1203, excludes supplemental compensation, such as education credits or credentials in pay schedules, overtime, premium pay, lump sum merit pay, performance pay, and extra duty pay.

Given the exclusion of supplemental compensation from base wages, as required by MERA, the base wage rate subject to collective bargaining for a particular general municipal employee position may be different than a person’s actual wage rate. Supplemental compensation, or any wages that are not “base wages,” are not subject to collective bargaining and are granted at the discretion of the municipal employer.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by Jessica Karls-Ruplinger, Senior Staff Attorney, Margit Kelley, Staff Attorney, and Laura Rose, Deputy Director, on May 2, 2012.

WISCONSIN LEGISLATIVE COUNCIL

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536

Telephone: (608) 266-1304 • Fax: (608) 266-3830

Email: leg.council@legis.state.wi.us

<http://www.legis.state.wi.us/lc>